

complaint

Mr C complains that Swinton Group Ltd mis-sold him a Platinum Riders Legal Protection (RLP) policy and, when he did make a claim, didn't give him any help.

Background

Mr C had previously had standard RLP as part of his motorcycle insurance. He renewed the policy over the phone. He says the adviser he spoke to recommended that he take out Platinum cover, so he did so. The premium was £60, £30 more than the standard cover he'd had before.

Mr C was involved in an accident. He phoned the number Swinton had given him and was put through to a service company, Q. When he described what had happened, he was told he wasn't eligible for legal services protection because the accident was his fault. Mr C complained that Swinton didn't give him any help with the claim or dealing with Q.

The adjudicator who looked at the complaint said Swinton was only the broker so wasn't to blame for the way the claim was dealt with by the various insurers involved. Mr C wasn't happy with this assessment of his complaint and asked for an ombudsman to review it.

my provisional decision

I issued a provisional decision in which I said:

'Having looked carefully at the RLP terms and conditions, the difference between standard and platinum cover is difficult to work out because the way it's set out is very confusing. Doing the best I can, it appears that the only advantage in paying the extra premium for platinum is that the policy holder's excess (up to a limit of £500) can be reclaimed in situations where there's no third party insurer to meet the claim. The number of claims that can be made is limited to two a year.

I asked Swinton what the difference was between the service provided to customers with legal protection policies and those who hadn't paid an extra premium for this cover. It said that, while all its customers have the opportunity to use Q to pursue a claim on their behalf, customers who haven't take out legal protection are asked to pay a one off fee equivalent to the annual legal protection cover, presumably £30.

Mr C's policy defines "RLP Services" as Swinton. The premium of £60 is split between Swinton (£42.93) and the insurer (£17.07). The policy undertakes that RLP Services will "give you assistance in connection with bringing your claim under your RLP insurance contract." I think it was reasonable of Mr C to expect that Swinton would provide some help with his claim, even if it was limited to explaining why Q wasn't willing to pursue the claim on his behalf and/or checking that that was the situation with Q. So I don't think Swinton provided the service that Mr C had paid for under the terms and conditions of the policy. Mr C said he was persuaded to take out RL Platinum cover by the adviser he spoke to, who told him it was 'the best' but didn't give him any other information about the policy. I asked Swinton to send me the recording of the sales call, but it wasn't able to do so. It's clear from Mr C's complaint that he was expecting a very different level of service from the one he actually received. So I accept Mr C's account of the conversation he had with the adviser as accurate and that Mr C was given the impression that he was buying a much better level of cover than the standard RLP. On that basis I'm satisfied the adviser didn't give Mr C the

information he needed to make an informed decision about whether it was worth upgrading to Platinum cover.

Taking all this into account my findings are:

- *Mr C was mis-sold the RLP Platinum policy, because it wasn't explained to him that the only difference from the standard RLP was that he could put in a claim for any excess he had to pay, if he couldn't pursue a claim through a third party insurer. I also don't think it was made clear that he could only get legal assistance if the accident wasn't his fault;*
 - *Swinton didn't provide Mr C with any help in relation to his attempt to make a claim under the RLP as it should have done;*
 - *Mr C had purchased standard RLP in the past and has identified it as one of the features he looked for when buying a policy, so he probably would have bought a standard policy in any event.*
- It follows that I am minded to uphold the complaint and direct Swinton to refund Mr C the additional £30 he paid for Platinum cover along with simple interest of 8% a year. I also intend to award Mr C £150 for the trouble and upset he suffered as the result of the poor service that Swinton provided.'*

Mr C accepted my decision. Swinton did not. It said the policy hadn't been mis-sold because the fact his excess could be recovered in situations where there was no third party insurer was a real benefit, since it would apply to claims for fire and theft. Swinton said Mr C had two motor bikes and had the potential to claim up to £1,000 a year having paid a £30 premium.

The fact that the platinum policy had some additional benefit doesn't mean it wasn't mis-sold. There's no evidence that Mr C wanted to arrange this type of additional cover. Nor is there any evidence that it was explained to him that this was the main benefit at the point of sale. I'm satisfied that Mr C thought he was buying enhanced legal protection and that nothing was said by Swinton's advisor to correct this impression.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

For the reasons set out in my provisional decision I remain of the view the complaint should be upheld. In addition to the mis-sale I'm satisfied that Swinton didn't provide the assistance it promised under the terms of the policy, causing Mr C additional trouble and upset.

my final decision

I uphold the complaint. I require Swinton Group Ltd to:

- Reimburse Mr C the £30 additional premium he paid along with simple interest of 8% a year from the date he paid the premium until the date the complaint is settled;
- Pay Mr C £150 compensation for trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 18 May 2016.

Melanie McDonald
ombudsman